

Appl. No. 09/889,592
Amdt. Dated February 4, 2004
Reply to Final Office Action of Sept. 26, 2003

REMARKS

Claims 37-48 were pending in the present application. By this Amendment, Applicants have canceled claims 39, 40, 44, and 46, without prejudice to their right to pursue the subject matter of these claims in a future continuation application. By this Amendment, all claims rejected in the September 26, 2003 Final Office Action have been canceled. The present Amendment does not introduce any new matter and thus, its entry is respectfully requested.

The September 26, 2003 Final Office Action

Claim rejections under 35 U.S.C. §112:

The Examiner rejected claims 39, 44 and 46 under 35 U.S.C. §112, first paragraph, as lacking enablement. These claims are directed to nucleic acids which hybridize under stringent conditions to the nucleic acids defined in claim 37. In this rejection, the Examiner has asserted that the specification does not provide enablement for all sequences that would hybridize to the identified sequences. He has further asserted that the conditions of hybridization are not disclosed in the specification and has concluded on this basis that it would take undue experimentation for one of skill in the art to be able to practice the invention commensurate in scope with the claims. The Examiner has also rejected claim 39 under 35 U.S.C. §112, second paragraph, as being indefinite in its recitation of the term "stringent."

The Examiner rejected claim 40 under 35 U.S.C. §112, first paragraph, as not being described in the specification in such a way as to convey to one of skill in the art that the inventor

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had possession of the invention at the time of the application's filing. The Examiner has asserted that the specification is silent as to the number and positioning of exons and introns, the size or sequence of the genomic DNA, or the location of the gene on the chromosome, and thus the claim, which is directed to a genomic DNA sequence, does not meet the statute's written description requirement.

In response, without conceding the correctness of the Examiner's position, but to advance prosecution of the subject application, Applicants have canceled rejected claims 39, 40, 44, and 46 without prejudice. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejections under 35 U.S.C. §112.

Allowed claims:

The Examiner stated that claims 37, 38, 41-43, 45, and 47-48 are in condition for allowance.

Applicants acknowledge and appreciate the allowance of these claims. Upon entry of this Amendment all rejected claims will have been canceled, leaving only allowable subject matter remaining and the application will be in condition for allowance. Applicants therefore respectfully request entry of the present Amendment, and early notice of allowance. The

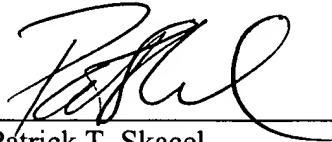
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Examiner is invited to telephone the undersigned if it is deemed to expedite allowance of the application.

Respectfully submitted,

February 4, 2004

By



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